IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 08.11.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Petition No.15156 of 2004
& WPMP No.17985 of 2004

Kanthammal .. Petitioner

Vs.

1.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai-600 003.

2.The Assistant Commissioner,
Revenue Zone-5,
Corporation of Chennai,
183, EVR High Road,
Chennai-600 010. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorari to call for the entire records relating to the impugned notice under Section 220 of the Madras City Municipal Corporation Act dated 10.02.2004 issued to the petitioner on 19.05.2004 by the first respondent viz.,The Commissioner, Corporation of Chennai, and quash the said notice.

For Petitioner : Mr.J.I.Rajkumar Roberts

For Respondents : Mr.A.Mohammed Ghouse for
Chennai Corporation.

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ORDER

(Order of the Court was delivered by P.SATHASIVAM, J.)

The petitioner has approached this Court for issuance of Writ of Certiorari to call for the impugned notice dated 10.02.2004 issued to her under Section 220 of the Madras City Municipal Corporation Act on 10.05.2004 by the first respondent viz.,The Commissioner,

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Corporation of Chennai, and quash the same.

2. Heard the learned counsel for the petitioner as well as the respondents.

3. It is not in dispute that the land bearing No.299, Purasawakkam High Road, Kilpauk, Chennai-10, over which the building and superstructure were constructed, does not belong to the petitioner. Even according to the learned counsel for the petitioner, she was sought for assignment of the land. Admittedly no order has been passed granting assignment in her favour. The particulars furnished by the Commissioner of Corporation, Chennai-3, in the form of counter affidavit show that the said property is situated in the junction of Kellys Road and Purasawalkam High Road. It is the claim of the respondents that the petitioner has illegally occupied to an extent of 780 sq. ft., and has put up a shop and building, wherein she is residing and now claimed as if, it is her own property.

4. During the course of hearing, the learned counsel for the petitioner fairly admitted that though the land belongs to the Corporation of Chennai, since the petitioner has made several representations for assignment of the land in her favour and no reply has been received from the respondents, she bonafidely thought that she can continue and enjoy the property.

5. We are unable to accept the said assumption. It is clear that knowing fully well that the petitioner is not the owner of the said property and it belongs to the Corporation, she constructed the building and also three shops causing hindrance to the public use. Merely because, the building and the shops were assessed for payment of property tax by the Officers of the Corporation of Chennai, it cannot be claimed that the respondents have recognised the ownership of the petitioner.

6. In view of the admitted factual position, viz., that the land belongs to the Corporation of Chennai and no order has been passed granting assignment or permission in favour of the petitioner by any authority, we find no merit in the claim made by the petitioner. Consequently, the writ petition fails and the same is dismissed. No costs. WPMP No.17985 of 2004 is also dismissed.

7. The learned counsel appearing for the petitioner, on getting specific instruction from the petitioner, who is also present in the Court, undertakes that the petitioner will hand over the possession to the respondents within a period of three months.

8. The above statement of the learned counsel for the petitioner is hereby recorded. Accordingly time is granted to the petitioner to hand over possession till 08.02.2007. The petitioner is directed

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to vacate and hand over the vacant site to the respondents before the said date, failing which the respondents are free to take coercive steps for removal of the petitioner from the land in question.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1.The Commissioner, Corporation of Chennai,
Rippon Building, Chennai-600 003.

2.The Assistant Commissioner,
Revenue Zone-5, Corporation of Chennai,
183, EVR High Road,
Chennai-600 010.

+1cc to Mr.A.Mohamed Gouse, Standing Counsel for Corporation of Chennai Sr 53336

RS (CO)
km/20.11.

W.P.No.15156 of 2004

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